

## **ARTICLE 25.00**

# **RESIDENTIAL OPEN SPACE OPTION**

Residential Open Space developments may be approved in the Agricultural, Residential A-1, Residential A-2, Residential A-3 and Residential A-4 districts, subject to the standards and review procedures set forth herein.

### **Section 25.01 -- PURPOSE**

It is the intent of this Article to offer an alternative to traditional subdivisions through the use of cluster zoning as authorized by the Michigan Zoning Enabling Act (Public Act 110 of 2006, as amended) for the purpose of:

- Encouraging the use of land in accordance with its character and adaptability;
- Assuring the permanent preservation of open space and other natural resources;
- Providing recreational facilities within a reasonable distance of all residents of the Residential Open Space development;
- Encouraging the provision of open space of a reasonable size;
- Allowing innovation and greater flexibility in the design of residential developments;
- Facilitating the construction and maintenance of streets, utilities, and public services in a more economical and efficient manner;
- Ensuring compatibility of design and use between neighboring properties and a consistent density with that permitted in the current zoning district; and
- Encouraging a less sprawling form of development, thus preserving open space as undeveloped land.

These regulations are intended to preserve the character of the City of Midland through the creation of small residential nodes with complementary open space. It is the intent of these regulations to produce a development substantially consistent with Zoning Ordinance standards, yet to allow for modifications from the general standards to meet the intent of this Ordinance.

### **Section 25.02 – REVIEW AND APPROVAL PROCESS**

If the Residential Open Space option is selected, the property shall be developed under the conditions and requirements in this sub-section, applicable requirements for the district in which the development is located, and other applicable zoning regulations and City ordinances. Proposals for Residential Open Space developments shall be reviewed following the same procedures used for a conditional land use in the underlying zoning district, except that the applicant shall complete a site features inventory prior to development. The inventory shall consist of maps and written analysis which shall identify, describe and

quantify the following features, at minimum: existing vegetation, topography at two-foot contour intervals, water courses, drainage patterns, roads and road rights-of-way, easements, soils (based on U.S. Soil Conservation Survey or soil borings), MDEQ-regulated wetlands, floodplains, woodlands and tree lines, and any additional features uniquely affecting the site.

## **Section 25.03 – DENSITY**

### **A. Permitted Density**

The overall density of residential uses in a Residential Open Space development shall not exceed the density that would be permitted if the site was developed as a conventional single family subdivision, unless a density bonus is recommended by the Planning Commission and approved by the City Council.

The permitted density shall be based on the net buildable area of the site which consists of the portions of the site that are not encumbered by regulated wetlands (except that one-quarter of the total wetlands may be counted as buildable), steep slopes, existing and proposed road rights-of-way, easements, existing structures or lots, or other existing or proposed features that would prevent construction of a building or use of the site for residential purposes.

Modifications permitted under the Residential Open Space option that result in reduction in land area dedicated to individual dwelling units shall be compensated for by an equivalent amount of open space, which shall be maintained and preserved in accordance with the standards specified in this subsection.

### **B. Density Bonus**

A density bonus of up to twenty percent (20%) shall be permitted at the discretion of the City Council where provisions are made for either preservation of natural features, recreational facilities, more extensive landscaping than otherwise required, the provision of bike paths or the preservation of open space of recognizable benefit to the City of Midland, not including the protection of regulated wetland areas.

## **Section 25.04 – DIMENSIONAL STANDARDS**

**A.** Variations from the setback and lot size requirements listed in Article 26.00 for the underlying zoning district may be permitted where the City Council finds that a smaller lot size is required to achieve the density permitted under Section 25.03.

### **B. Distances between Buildings**

Any detached single family structure (or accessory structure thereto) shall be located at least ten (10) feet from any other detached single family structure or accessory structure.

### **C. Height Standards**

Buildings in a Residential Open Space development shall comply with the height standards for the district in which the development is located.

## **Section 25.05 – OPEN SPACE REQUIREMENTS**

Residential Open Space developments shall provide and maintain open space in an undeveloped state, which shall comply with the following requirements:

1. Residential Open Space developments shall reserve at least twenty percent (20%) of the parcel in an undeveloped state.
2. Open space shall be located on the parcel to meet the following objectives:
  - a. To preserve distinctive natural features, scenic or wooded conditions, and other open space.
  - b. To preserve farmlands.
  - c. To minimize impact from development on wetlands, streams, and other sensitive environmental areas.
  - d. To provide additional buffering from traffic and enhance views from the roadway.

In addition, the open space shall be developed with children's play facilities, picnic facilities, trails, and similar passive recreational facilities to satisfy the needs of future residents of the development, provided that all such facilities shall be compatible in design with other open space requirements and objectives.

3. Required open space shall not include the area of any public or private road, the area of any easement providing access to the site, or the area of any commercial recreation use (such as a golf course). Required open space also shall not include the area of any stormwater retention or detention pond, with the exception that up to 50% of the surface area of stormwater management ponds may qualify as open space if the following conditions are met:
  - a. All stormwater management ponds shall be integrated into the overall development and shall serve as a visual and physical amenity to the site. A visual and physical amenity is easily accessible to pedestrians and/or non-motorized vehicles and is visually attractive.
  - b. All stormwater management ponds shall have a minimum permanent water depth of 4 feet and a maximum permanent water depth of 9 feet.
  - c. The maximum slope of stormwater management ponds in a Planned Unit Development shall be 1:6.
  - d. Fences around stormwater management ponds are not permitted.
  - e. All stormwater management ponds shall have a natural appearance, and shall be round, oval, or kidney in shape with irregular edges.
  - f. Recreation facilities such as walking paths shall be provided near and/or around stormwater management ponds to allow users of the site to use and enjoy the ponds as an amenity.
4. Open Space areas shall be protected from soil compaction during construction.
5. The required open space shall be set aside by the developer through an irrevocable conveyance, such as a deed restriction, conservation easement, plat dedication, restrictive covenant, or other means that runs with the land assuring that the open space will remain undeveloped. Such conveyance shall:

- a. Indicate the proposed use(s) of the required open space.
- b. Provide for the privately-owned open space to be maintained by private property owners having an interest in the open space.
- c. Provide maintenance standards and a maintenance schedule.
- d. Provide notice of possible assessment to the private property owners by the City of Midland for the maintenance of the open space in the event that it is inadequately maintained and becomes a public nuisance.
- e. After approval from the City Attorney, the developer shall record the conveyance with the Midland County Register of Deeds to provide record notice of the restrictions to all persons having or seeking an interest in the property contained in the Residential Open Space development. Evidence that the document has been recorded shall be provided to the City prior to issuance of any permits to commence construction.

## **Section 25.06 – STORMWATER MANAGEMENT**

1. Existing natural drainage shall be maintained to the maximum extent feasible.
2. Retention and detention basins, where proposed or required, shall resemble natural ponds with gradual slopes and shall be landscaped with plant material that enhances the wildlife habitat.
3. Best management practices in stormwater management are encouraged such as use of natural habitat to filter stormwater (bio-swales, rain gardens and phytoremediation), design to decrease the amount of impervious surfaces (permeable paving, green roofs, and curbless parking areas and roads), and dissemination of stormwater in a natural manner (level spreaders and multiple, connected ponds).